



FERC Licensing Processes

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Licensing Standard (FPA)

- Equal Consideration
 - Equal consideration to environmental and developmental values
- Comprehensive Development
 - License project that best serves the public interest (best adapted to comprehensive plan for use of waterway)



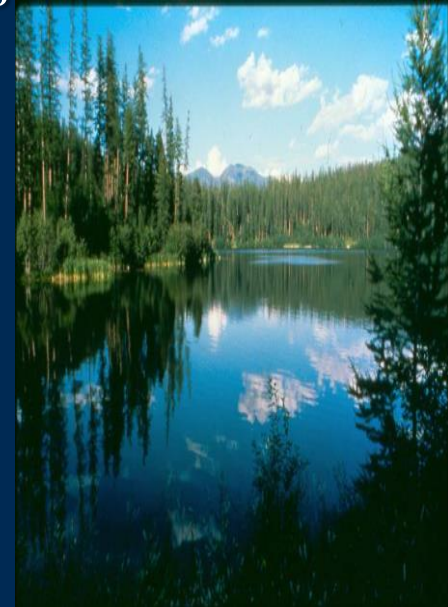
Other Licensing Considerations (FPA)

- State and federal fish and wildlife agency recommendations [10(j)]
- Consistency with comprehensive plans [10(a)(2)]
- Mandatory conditions in FPA:
 - On Reservations [4(e)]
 - For Fishways [18]



National Environmental Policy Act

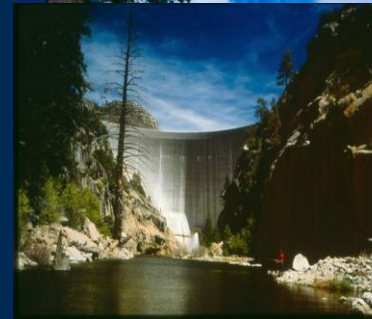
- Scoping: public process to identify substantive issues
- Preparation of the NEPA document - analysis
 - Non-draft EA
 - Draft Environmental Assessment (EA)
 - Draft Environmental Impact Statement (EIS)
- Staff makes licensing recommendation
- Comments on draft/non-draft environmental documents
 - Request ESA/NHPA consultation
 - 10(j) process (within 90 days)
- Modified terms and conditions
- Final EA/EIS – includes response to comments





Typical Environmental Issues Analyzed in NEPA Documents

- Water Quality
- Fisheries
- Soils/Geology
- Wildlife/Vegetation
- Historical/Archeological
- Recreation/Land Use
- Aesthetics
- Socioeconomics





Typical Developmental Issues Analyzed in NEPA Documents



- Energy
- Flood Control
- Municipal Waters
- Irrigation
- Navigation



Valuing Resources

- Power (quantitative)
 - Lost generation or dependable capacity
 - Value of lost power or capacity
- Non-power (quantitative and qualitative)
 - Level of effect (type and length of whitewater run, lake level elevation, amount of use, etc.)
 - Significance of effect (uniqueness, management goals, geographical significance, legal protection, etc.)



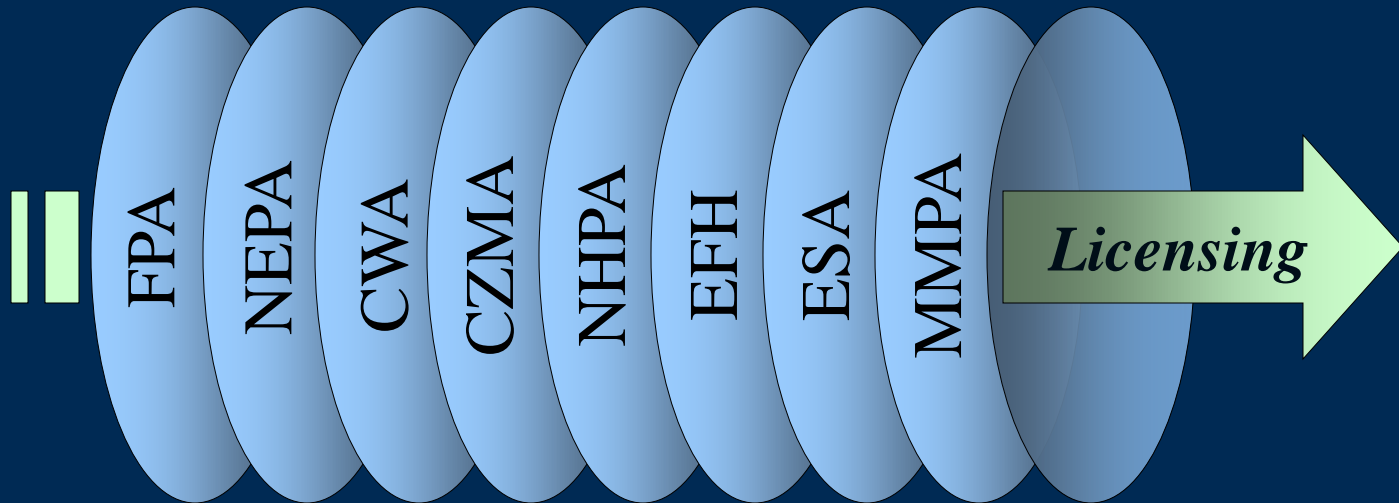
Balancing



Environmental Concerns vs. Developmental Concerns



Laws & Regulations



Public resource that serves multiple uses
Many players with varying goals
Shared decision making (mandatory conditions)
Study/information needs



Other Federal Laws

- Clean Water Act
- Endangered Species Act
- National Historic Preservation Act
- Fish and Wildlife Coordination Act
- Magnuson-Stevens Fishery Conservation and Management Act
- Coastal Zone Management Act
- Wild and Scenic Rivers Act





Special Designations

- Federal Reservations
- Coastal Zone Management Act
- Land and Water Conservation Fund Act Lands
- Wild and Scenic River Act
- Wilderness Act



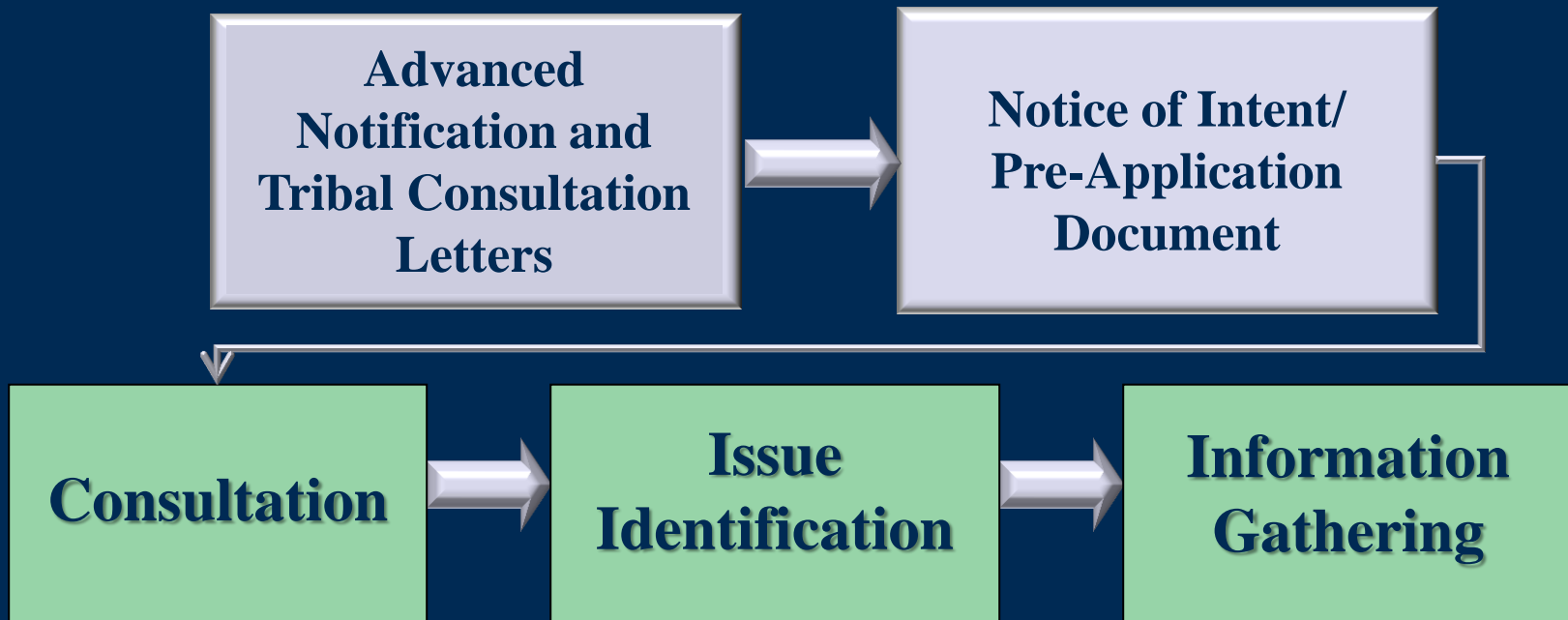


FERC Licensing Processes



Basic Licensing Steps

Pre-filing





Basic Licensing Steps

Post-filing





Advanced Notice

- Applicant Responsibilities
 - Identify potential stakeholders
 - Identify available information
 - Contact stakeholders for relevant data



Licensing Process Begins

- 5 to 5 ½ years prior to license expiration
 - Applicant Files Notice of Intent (NOI) and Pre-Application Document (PAD) (§5.5 - §5.6)
 - Request to be Non-federal Representative for Endangered Species and National Historic Preservation Act Consultations (§5.5(e))
 - Applicant May Request Use of ALP or TLP (§5.3)



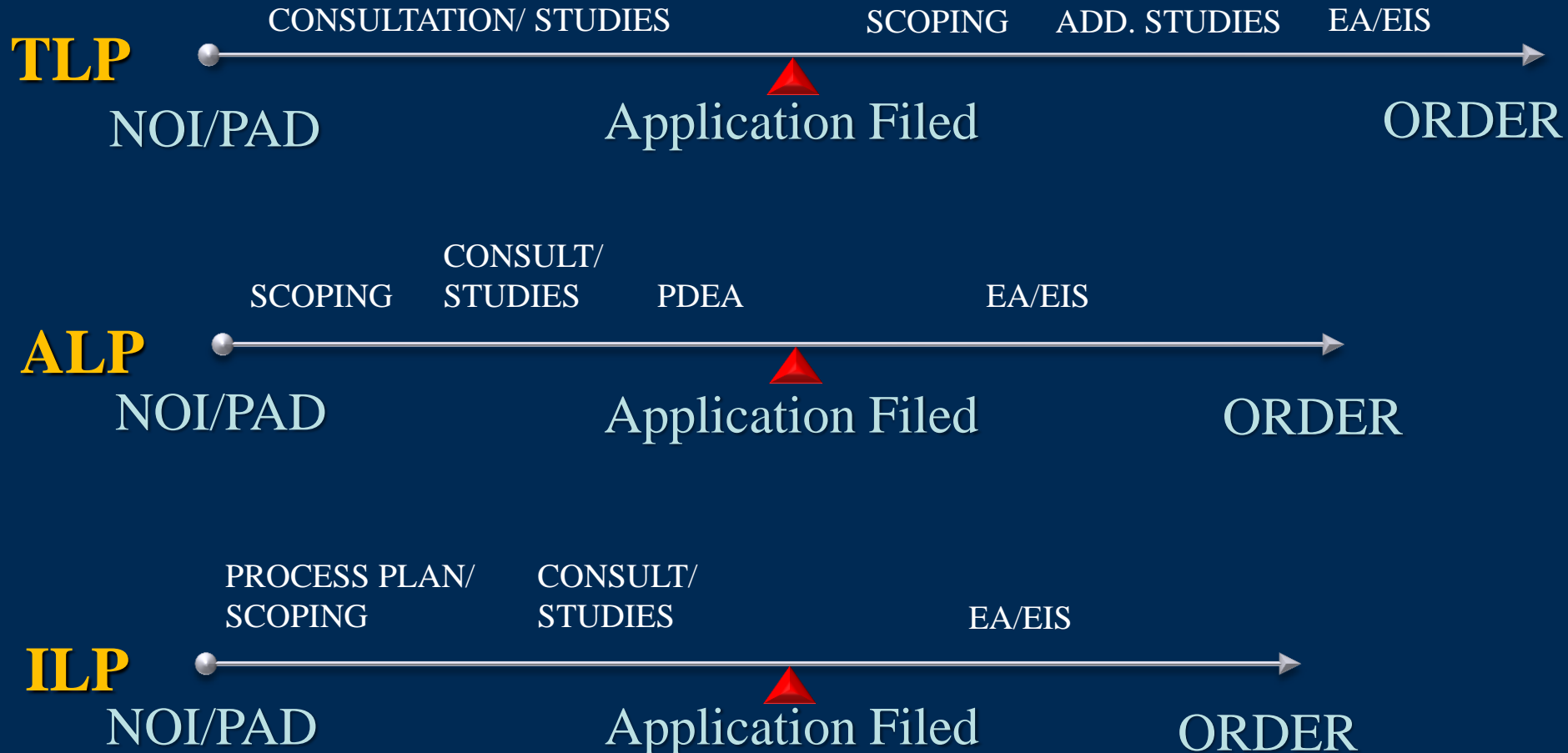
Licensing Processes

Integrated Licensing Process (ILP)	Alternative Licensing Process (ALP)	Traditional Licensing Process (TLP)
Default process	Available upon request and FERC approval	Available upon request and FERC approval
Projects with complex issues and study needs; FERC oversight in pre-filing	Smaller projects that effectively promote a self-driven collaborative pre-filing process; some FERC involvement	Projects with less complex issues and study needs; no FERC oversight in pre-filing
Predictable scheduling in both pre-filing and post-filing stages	Collaboratively-determined schedule in pre-filing stage	Paper-driven process; no set timeframes

Post-filing elements of each process very similar



Licensing Process Comparison



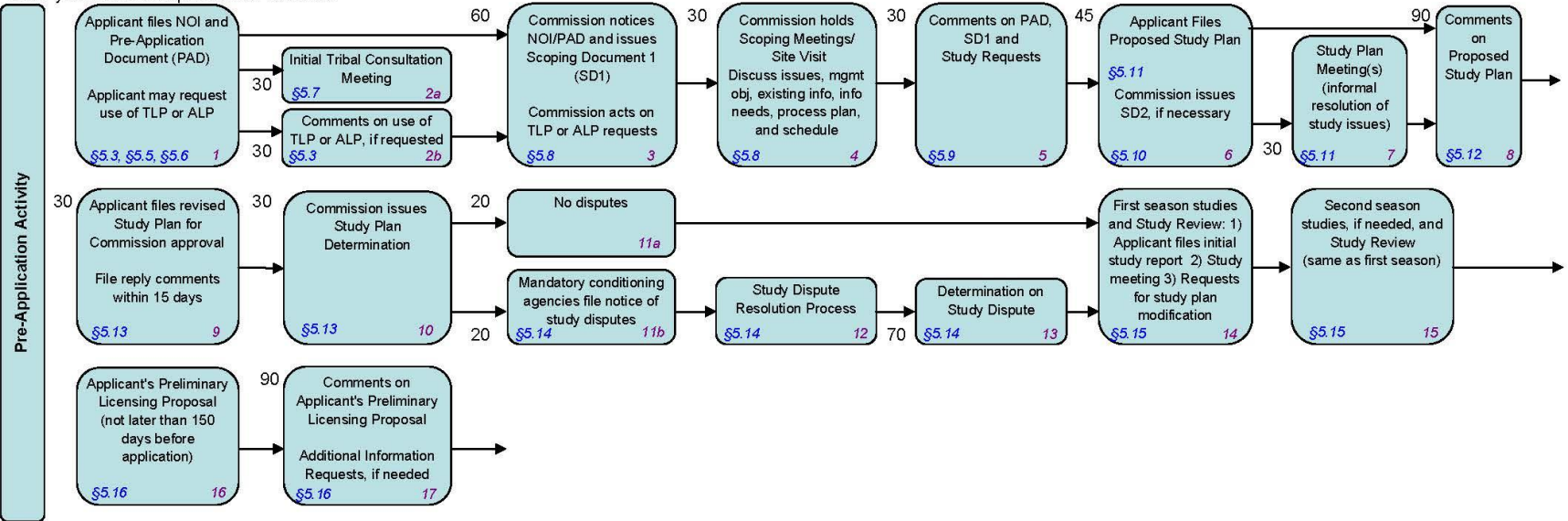


Integrated Licensing Process Regulations

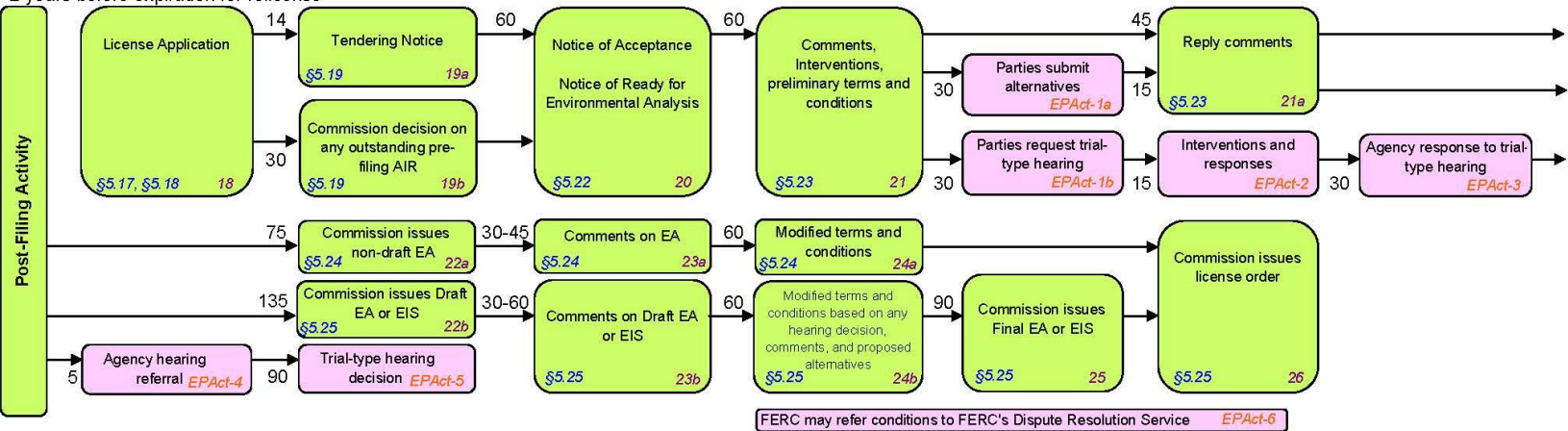
- 18 CFR §§ 4 and 16
 - § 4, Projects that have never been licensed
 - § 16, Projects that have been previously licensed
- Integrated Licensing Process
 - 18 CFR § 5.0-5.31
 - Flowchart

Integrated Licensing Process (Section 241 of the Energy Policy Act of 2005)

5.5-5 years before expiration for relicense



2 years before expiration for relicense





Purpose of the ILP

- Provides a predictable, efficient, and timely licensing process
- Continues to ensure appropriate resource protection





Underlying Principals of the ILP

- Early study plan development
- Better coordination with other stakeholder processes
- Established time frames





Key Elements of the ILP

- Pre- Application Document (PAD)
- Process plan
- Early scoping and study plan development (study criteria)
- Approved study plan and study plan dispute resolution
- Feedback loop on studies
- Preliminary licensing proposal



Integrated Licensing Process

Pre-filing

Initial Proposal
& PAD

Scoping
Meetings &
Public
Comment

Study Plan
Development

Conduct
Studies &
Prepare
Application

1 year

2-3 years

Post-filing

Application:
Proposal,
Effects &
Mitigation
Measures

FERC Review
& Public
Comment

FERC
Environmental
Document &
Public Comment

FERC
Authorization
(License Order)

1.5 years



Traditional Licensing Process

Pre-filing





Traditional Licensing Process

Post-filing

**Application
Filed**

Notice of Filing

NEPA Scoping

REA Notice

**Issue EA/Draft
EIS**

**Resolve Issues
and Respond to
Comments**

**Issue Final
EA/EIS**

Order



Alternative Licensing Process

Pre-filing

**Stakeholder
Consultation**

**Prepare
Communication
Protocol**

**File NOI/PAD
and Request
Use of ALP**

**FERC
Approves Use of
ALP**

**Information
Package**

**Cooperative
Scoping**

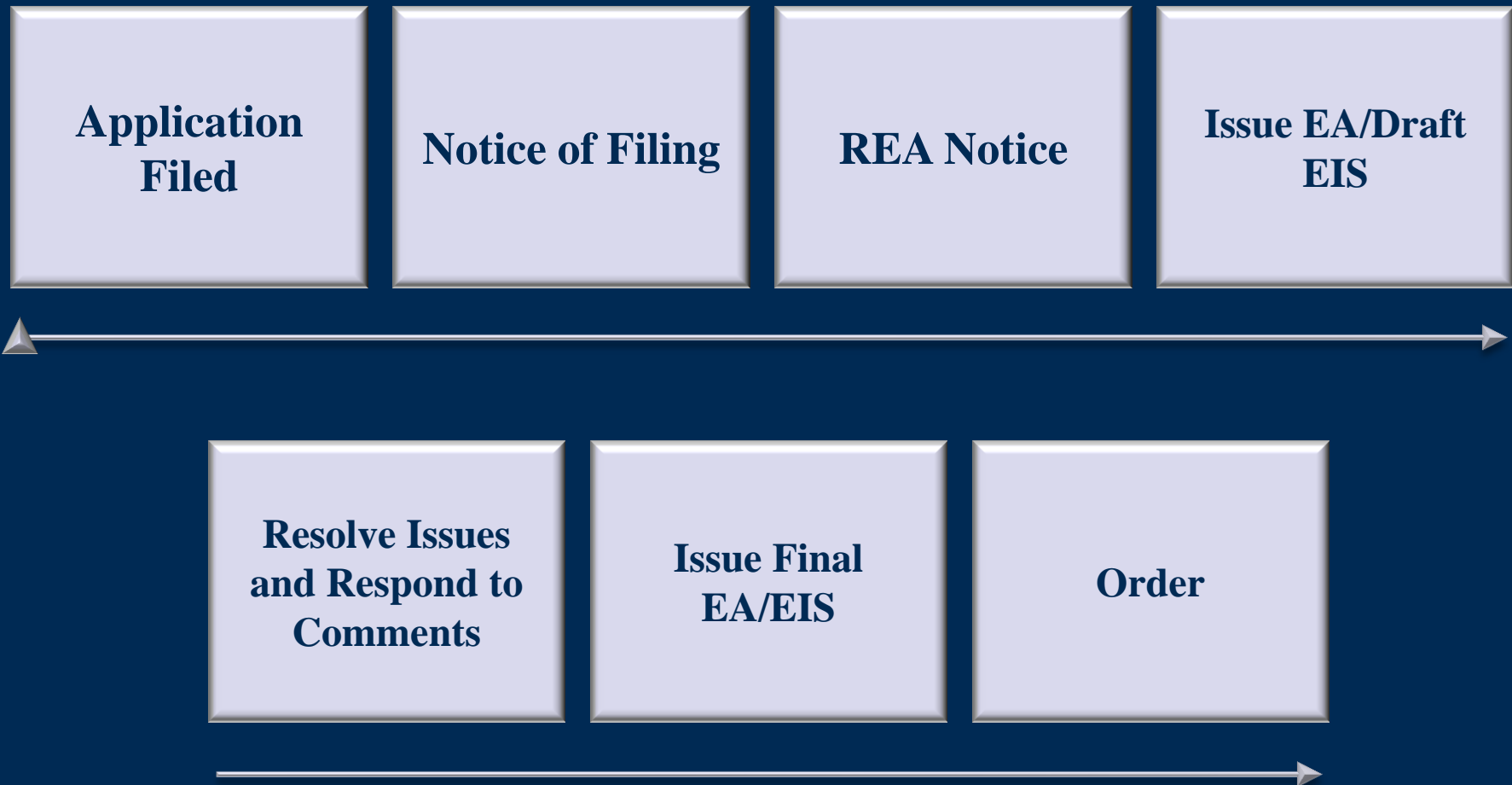
**Conduct
Studies**

**File License
Application**



Alternative Licensing Process

Post-filing





Commercial Licensing Process Comparison

	TLP	ALP	ILP
Consultation	Paper	Collaborative	Integrated
FERC Involvement	Post-filing	Pre-filing: Requested	Pre-filing: Sustained
Deadlines	<u>Pre-filing</u> Some <u>Post-filing</u> Defined by FERC	<u>Pre-filing</u> Collaboratively defined <u>Post-filing</u> Same as TLP	All participants throughout process, including FERC



Commercial Licensing Process Comparison

	TLP	ALP	ILP
Study Plan Development	Applicant No FERC involvement	Collaborative group FERC assistance	Study plan meetings FERC approved
Study Dispute Resolution	Formal: Advisory Informal: No	Formal: Advisory Informal: Yes	Formal: Mandatory agency Informal: Yes



Commercial Licensing Process Comparison

	TLP	ALP	ILP
Application	Exhibit E	APEA or 3rd party EIS	PLP or Exhibit E follows EA format
Additional Information Requests	Post-filing	Pre-filing Post-filing limited	Pre-filing No Post-filing study requests
Timing of Resource Agency Terms & Conditions	60 days after REA Schedule for final	60 days after REA Schedule for final	60 days after REA Modified 60 days after due date for comments on draft NEPA document



Selecting a Process

- ILP
 - Controversial and complex projects
 - Need structured timelines
- TLP
 - Little controversy and low complexity projects
 - Amount of available information and cost
- ALP
 - Support from stakeholders for early involvement
 - Flexible timeframe



Modified Licensing Procedures

- Small/Low-impact Hydropower Program
 - Minor environmental effects
 - Small Scale
 - Modified TLP
- Marine and Hydrokinetic Pilot Process
 - New technologies
 - Site and environmental effects testing
 - Modified ILP



Small/Low-Impact Projects

Small/Low Impact Hydropower Program

TEXT SIZE S M L



On August 9, 2013, President Obama signed into law the "Hydropower Regulatory Efficiency Act of 2013". The act promotes small hydroelectric and conduit hydropower projects, authorizes FERC to extend preliminary permit periods, and promotes hydropower development at nonpowered dams and closed-loop pumped storage projects. [Read More](#)



Under the Federal Power Act (FPA), FERC regulates the nation's non-federal hydropower resources. FERC issues three types of development authorizations: conduit exemptions, 10-megawatt (MW) exemptions, and licenses. This website explains how to obtain Commission authorization to construct and operate small/low-impact projects while assuring adequate protection of environmental resources. This program is intended for small projects that would result in minor environmental effects (e.g., projects that involve little change to water flow and use and are unlikely to affect threatened and endangered species).

Getting Started

- ◊ [FERC Authorization](#)
- ◊ [Exemption or License](#)
- ◊ [Information About Projects Nearby](#)
- ◊ [Off-Limits Sites](#)
- ◊ [Related Websites](#)
- ◊ [Dam Safety and Small/Low Impact Hydropower Development](#)

Prepare an Application

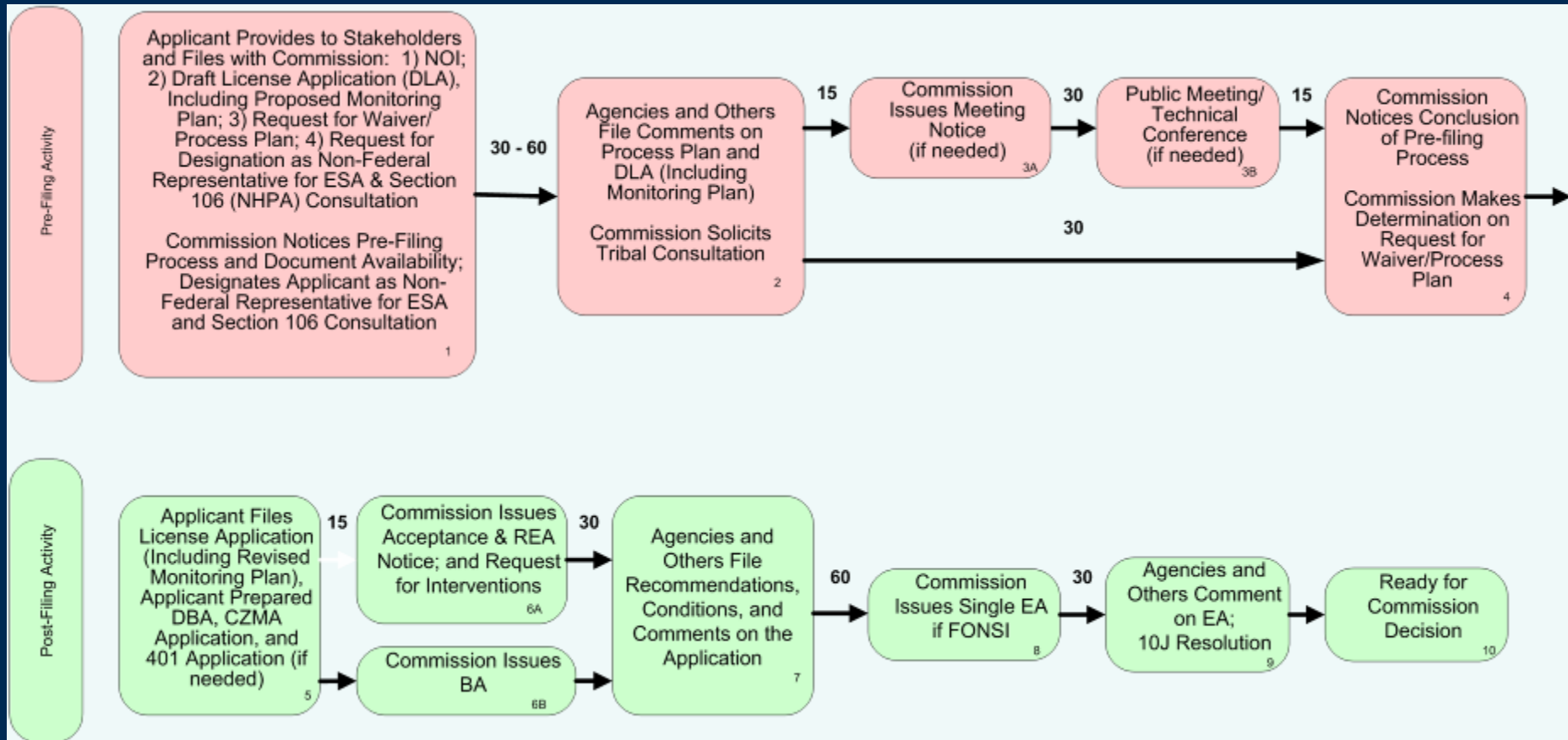
- ◊ [Process Overview](#)
 - [File Preliminary Information](#)
 - [Consult Stakeholders](#)
 - [Gather Information](#)
 - [Prepare Application](#)
- ◊ [Tips to Develop a Complete Application](#)

Expedite your Project

- ◊ [What You Can Do](#)
- ◊ [What FERC Can Do](#)
- ◊ [Projects Issued in Less Than 1 Year](#) **XLS** updated 03/28/2013



Hydrokinetic Pilot Project Licensing Procedures



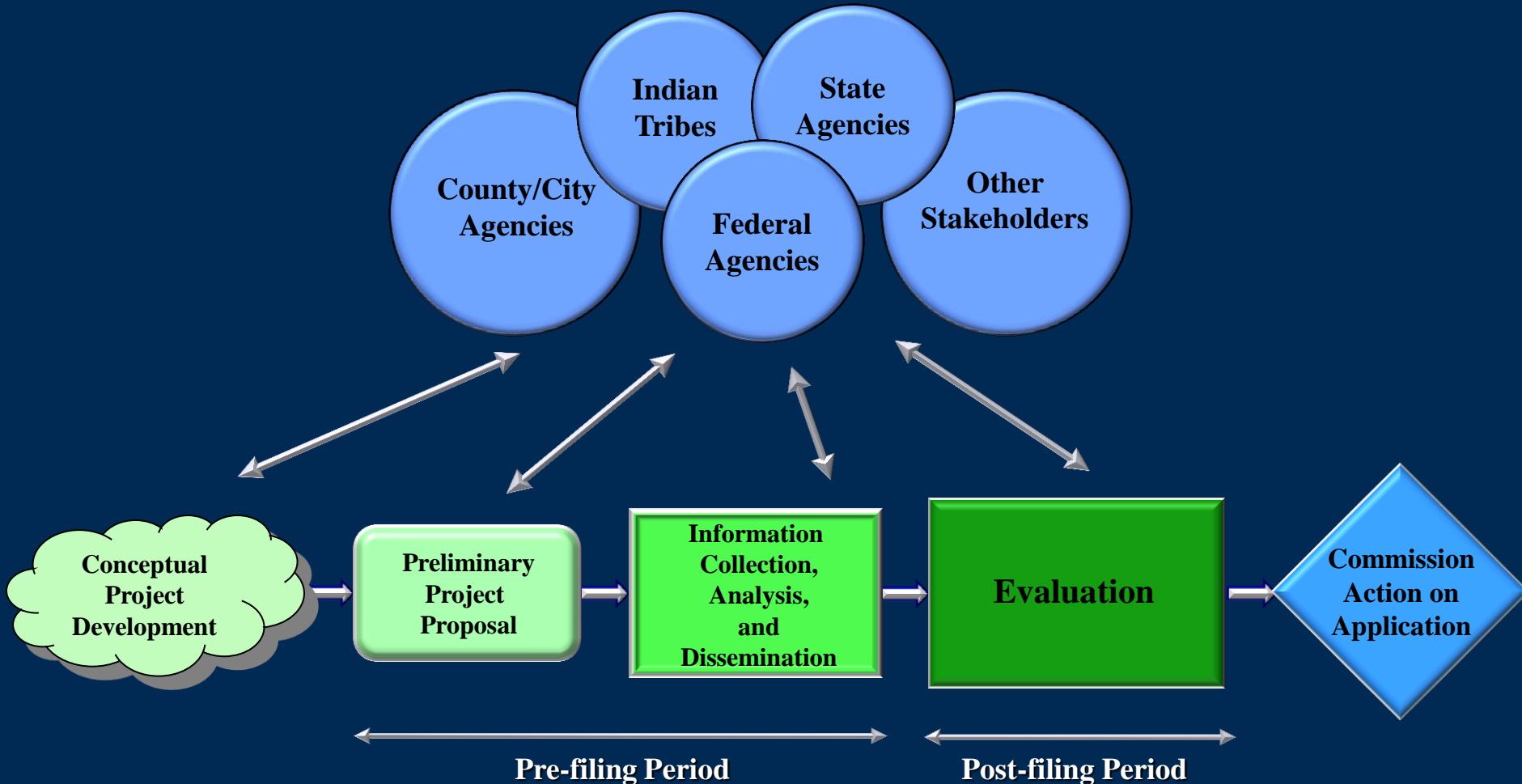


Pilot Project License

- Small, short term, removable projects
- Test technology and/or evaluate sites
- Protect the environment
 - Short license term and small footprint
 - Post-license monitoring
 - Project shutdown or removal if harm
- Process pilot license applications in as few as 6 months



Pathway to License





Questions?

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